HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION No. 788 OF 2006

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Between:

M. Ratna Mohan Rao

……Petitioner

And

The Municipal Corporation of Hyderabad,

Rep. by its Commissioner, Municipal

Corporation of Hyderabad and three others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri G. Dasaradha Rami

Reddy

Counsel for the Respondents : Sri Mohd. Islamuddin

Ansari for

Sri G. Rama Rao

Dated: 12-06-2006

Per G.S. SINGHVI, CJ

This is a petition for quashing notice dated 9-1-2006 issued by Commissioner, Municipal Corporation of Hyderabad (hereinafter referred to as 'the Corporation') to the petitioner under Section 402 of the Hyderabad Municipal Corporation Act, 1955 requiring him to remove/vacate encroachment on public place.

In the affidavit filed by him, the petitioner has averred that he is a physically challenged person. He was sanctioned telephone booth in the year 1993. He installed telephone booth at the backside of General Post Office (GPO) after obtaining permission from the competent authority of the Corporation and has been earning his livelihood by operating the booth. His grievance is that, in the garb of implementing the directions given by the High Court on 27-12-2005 in Writ Petition No.20228 of 2005, the authorities of the Corporation have initiated action for removing his booth ignoring the fact that he has not made any encroachment on the public place and, in fact, he is running booth as per the permission granted by the competent authority.

We have heard learned counsel for the parties. Learned counsel for the petitioner submitted that his client is not doing business on any footpath or pavement and, therefore, he cannot be asked to vacate the site of the booth. Sri Mohd. Islamuddin appearing for Municipal Corporation of Hyderabad says that the petitioner who is a physically challenged person will be allowed to do business in the side lanes provided he gives an undertaking to vacate encroachment from the public land.

In view of the statements made by the learned counsel for the parties, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioner should make an application to the competent authority stating therein that he is a physically challenged person and the notice issued against him is liable to be withdrawn because he is not doing business by making encroachment on footpath or pavement.

2) The application of the petitioner shall be considered by the competent authority and disposed of within a period of three weeks of its receipt.

3) If the competent authority finds that the petitioner has put up booth on pavement or footpath, then, he should be directed to shift the same to the by-lane and be given some time to shift from the present site. If, on the other hand, it is found that the petitioner is not operating on any footpath or pavement or has not made encroachment of public land, then, he shall be allowed to continue to operate from the present site.

G.S.SINGHVI, CJ

G.V. SEETHAPATHY, J

June 12, 2006

ks/svs/vtv